

Translation

PATENT COOPERATION TREATY

PCT Application
PCT/JP2003/007336



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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|---|---|---|
| Applicant's or agent's file reference A31347A | FOR FURTHER ACTION | See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |
| International application No. PCT/JP03/07336 | International filing date (<i>day/month/year</i>) 10 June 2003 (10.06.03) | Priority date (<i>day/month/year</i>) 10 June 2002 (10.06.02) |
| International Patent Classification (IPC) or national classification and IPC C12N 15/12, 1/21, 5/10, C07K 14/435, 19/00, G01N 21/78 | | |
| Applicant | RIKEN | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

- I Basis of the report
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

| | |
|--|--|
| Date of submission of the demand 10 June 2003 (10.06.03) | Date of completion of this report 01 October 2003 (01.10.2003) |
| Name and mailing address of the IPEA/JP | Authorized officer |
| Facsimile No. | Telephone No. |

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP03/07336

I. Basis of the report

1. With regard to the elements of the international application:*

the international application as originally filed

the description:

pages _____, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

the claims:

pages _____, as originally filed

pages _____, as amended (together with any statement under Article 19)

pages _____, filed with the demand

pages _____, filed with the letter of _____

the drawings:

pages _____, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

the sequence listing part of the description:

pages _____, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:

the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

the language of publication of the international application (under Rule 48.3(b)).

the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

contained in the international application in written form.

filed together with the international application in computer readable form.

furnished subsequently to this Authority in written form.

furnished subsequently to this Authority in computer readable form.

The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

the description, pages _____

the claims, Nos. _____

the drawings, sheets/fig _____

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP03/07336

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

| | | | |
|-------------------------------|--------|------|-----|
| Novelty (N) | Claims | 1-18 | YES |
| | Claims | | NO |
| Inventive step (IS) | Claims | | YES |
| | Claims | 1-18 | NO |
| Industrial applicability (IA) | Claims | 1-18 | YES |
| | Claims | | NO |

2. Citations and explanations

Document 1: Midoriishi, March 2002, No. 13, pages 1-4

Claims 1-18

Based on the description in document 1 cited in the international search report, the inventions of claims 1-18 lack an inventive step.

Document 1 describes the cloning of DNA that encodes a fluorescent protein from Cnidaria including coral and sea anemone, and an attempt to analyze the properties of that fluorescent protein. Because *Cnidopus japonicus* was a known species of sea anemone at the time this application was filed, persons skilled in the art could easily select *Cnidopus japonicus* as the Cnidaria in document 1 and clone the DNA that encodes the fluorescent protein from *Cnidopus japonicus*. Moreover, persons skilled in the art could easily predict the effect.

In addition, techniques for the deletion, substitution and addition of amino acids when producing a mutant fluorescent protein obtained by cloning are widely known, and this examination finds that so doing presents no particular technical difficulty.